



Serving the Iowa Legislature

IOWA LEGISLATIVE INTERIM CALENDAR AND BRIEFING

October 28, 2015

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Thursday, October 29, 2015

State Government Efficiency Review Committee

9:30 a.m., Room 116, Statehouse

Tuesday, November 3, 2015

Health Policy Oversight Committee

10:00 a.m., Room 116, Statehouse

Tuesday, November 10, 2015

Administrative Rules Review Committee

9:00 a.m., Room 116, Statehouse

Wednesday, November 18, 2015

Tax Expenditure Committee

10:00 a.m., Room 103, Supreme Court Chamber, Statehouse

Iowa Legislative Interim Calendar and Briefing is published by the Legal Services Division of the Legislative Services Agency (LSA). For additional information, contact: LSA at (515) 281-3566.

AGENDAS

INFORMATION REGARDING SCHEDULED MEETINGS

State Government Efficiency Review Committee

Co-chairperson: Senator Jeff Danielson

Co-chairperson: Representative Guy Vander Linden

Location: Room 116, Statehouse

Date & Time: Thursday, October 29, 2015, 9:30 a.m.

LSA Contacts: Andrew J. Ward, Legal Services, (515) 725-2251; Jack Ewing, Legal Services, (515) 281-6048; Ed Cook, Legal Services, (515) 281-3994.

Tentative Agenda: Presentations concerning information technology efficiencies, cost-benefit analysis in policymaking, the Board of Regents' Transparent, Inclusive Efficiency Review (TIER) project, and design-build contracting.

Internet Site: <https://www.legis.iowa.gov/committees/committee?endYear=2015&groupID=578>

Health Policy Oversight Committee

Co-chairperson: Senator Amanda Ragan

Co-chairperson: Representative David E. Heaton

Location: Room 116, Statehouse

Date & Time: Tuesday, November 3, 2015, 10:00 a.m.

LSA Contacts: Patty Funaro, Legal Services, (515) 281-3040; Rachele Hjelmaas, Legal Services, (515) 281-8127; Ann Ver Heul, Legal Services, (515) 281-3837.

Agenda: To be announced.

Internet Site: <https://www.legis.iowa.gov/committees/committee?ga=86&groupID=24165>

Administrative Rules Review Committee

Chairperson: Representative Dawn Pettengill

Vice Chairperson: Senator Wally Horn

Location: Room 116, Statehouse

Date & Time: Tuesday, November 10, 2015, 9:00 a.m.

LSA Contacts: Jack Ewing, Legal Services, (515) 281-6048; Tim Reilly, Legal Services, (515) 725-7354.

Agenda: Published in the Iowa Administrative Bulletin:

<https://www.legis.iowa.gov/law/administrativeRules/bulletinSupplementListings>

Internet Site: <https://www.legis.iowa.gov/committees/committee?endYear=2015&groupID=705>

Tax Expenditure Committee

Co-chairperson: Senator Joe Bolkcom

Co-chairperson: Representative Thomas R. Sands

Location: Room 103, Supreme Court Chamber, Statehouse

Date & Time: Wednesday, November 18, 2015, 10:00 a.m.

LSA Contacts: Mike Mertens, Legal Services, (515) 281-3444; Doug Adkisson, Legal Services, (515) 281-3884; Michael Duster, Legal Services, (515) 281-4800.

Tentative Agenda: Presentations concerning the franchise tax, moneys and credits tax, agricultural assets transfer tax credit, custom farming contract tax credit, charitable conservation contribution tax credit, new jobs tax credit, assistive device corporate tax credit, Iowa alternative minimum tax credit, claim of right tax credit, S corporation apportionment tax credit, and fuel tax credit.

Internet Site: <https://www.legis.iowa.gov/committees/committee?ga=86&groupID=594>

RECYCLING POLICY STUDY COMMITTEE

October 19, 2015

Co-chairperson: Senator Rita Hart

Co-chairperson: Representative John H. Wills

Background. The Recycling Policy Study Committee was created by the Legislative Council for the 2015 Legislative Interim and authorized to hold one meeting. The charge of the committee is to evaluate the effectiveness of the implementation of recycling policies in Iowa, including but not limited to bottle deposits, handling fees, government oversight and involvement, and the incidence of unreturned containers. The committee shall consult with distributors, retailers, customers, recyclers, and other interested stakeholders to obtain their input, and shall submit recommendations, if deemed appropriate, to the General Assembly by January 1, 2016.

Overview of Beverage Container Recycling Laws. Mr. Alex Moon, Land Quality Bureau Chief, Department of Natural Resources (DNR), provided an overview of beverage container recycling laws. The Iowa Beverage Container Law, or "bottle bill," was enacted in 1979 to fight litter but also promotes recycling and reduces waste going to landfills. The law requires a five-cent deposit on containers for soda pop, mineral water, liquor, wine and wine coolers, and beer. Iowa has an estimated 86 percent redemption rate on such containers. The law does not address what happens to unclaimed deposits on approximately 280 million containers not returned for refunds each year. Distributors keep those unclaimed deposits.

Mr. Bill Blum, Director, Beverage Container Control Program, DNR, joined Mr. Moon in responding to questions. DNR's official stance is in favor of enforcing the law as written. On a scale of 0-10, Mr. Blum opined that the statute is a strong 7.5 but could be made better with some changes. The latest survey shows 75 percent public support of the law.

Distributors' Perspective. Mr. Kirk Tyler, President, Atlantic Coca-Cola Bottling Company; Mr. Don Hensen, Vice President Plains Region, Dr. Pepper Snapple Group; Mr. Kyle Gansen, Field Operations Manager, Lime Rock Springs Co./Pepsi-Cola Bottling Company of Dubuque; and Mr. Jay Doll, Doll Distributing, LLC, spoke about the beverage container law from their perspective as distributors.

Some distributors have separate recycling facilities and trailers to handle empty beverage containers. New product is sometimes delivered in separate vehicles to ensure clean transport. Border areas incur fraud from attempts to redeem nondeposit containers. It is expensive to have trucks backtrack to pick up empty containers. Empty containers pose sanitation issues.

Mr. Tyler, Mr. Hensen, and Mr. Gansen opined that times have changed and the law should change too, perhaps to allow curbside recycling of all beverage containers. Mr. Doll said that his family feels the law has been a success and does not want to see any expansion or change in the law.

Retailers' Perspective. Mr. Pat Hensley, Senior Vice President, Governmental Affairs, Business Innovation and Sustainability, Hy-Vee; Mr. Paul Schemmel, Store Manager, Fareway, Dubuque; and Mr. Steve Grolmus, Owner, North Scott Foods, Eldridge, and Williamsburg Foods, Williamsburg, discussed the law from a retailer's perspective.

The retailers said that there are sanitation problems with bringing dirty beverage containers into stores and storing them there. There is a manpower problem on weekends when lots of containers are returned. Customers complain about having to return containers to the store. Glass containers are a safety issue and there is little market for recycled glass. Mr. Hensley said that Hy-Vee is exploring broader recycling options with landfill diversion of organic products like food scraps, produce, and landscaping materials; solar efforts; windmills to supply stores' electrical needs; and car charging stations. Fareway is also working on landfill diversion and recycling plastic bags. The retailers opined that the law should be changed to allow curbside recycling and said that they are open to phasing in a better program.

Redemption Centers' Perspective. Mr. Joe Strunk, Main Ave Redemption Center, Clinton, and Mr. Troy Willard, Managing Member, Can Shed LLC, Cedar Rapids, spoke about the law from the perspective of redemption centers.

Mr. Strunk said that his small facility struggles to survive. Distributors do not pay the full amount on containers, do not pay at all for plastic, and require containers to be sorted and placed in special bags. Distributors make a profit by paying redemption centers less than the containers are worth and retaining deposits on unredeemed containers. Mr. Strunk opined that the handling fee for containers should be raised immediately and that any solution will likely include curbside recycling.

Mr. Willard said that his center does well by providing additional services to consumers, retailers, and distributors such as picking up containers for distributors, contract hauling, and scrap processing. Mr. Willard opined that the law should be expanded to include more types of containers and handling fees increased to encourage more redemption centers

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to open. This will take the load off retailers. Iowa should look at other states with container deposit laws for ideas. Curbside recycling is not the answer.

Recyclers' Perspective. Mr. Mick Barry, President, Mid-America Recycling, Des Moines; Mr. Scott Dittmer, Dittmer Recycling, Inc., Dubuque; and Ms. Susan Collins, President, Container Recycling Institute, Culver City, California, discussed the law from the perspective of container recycling.

Mr. Barry said that his company is the largest single-stream recycling facility in the state. If all container recycling is changed to curbside pick-up, operating costs will increase for recyclers and garbage haulers. These costs will be passed directly to consumers. Mr. Barry suggested enhancing the current law and watching what happens with single-stream recycling. At present, single-stream recycling and the Iowa container law work in harmony.

Mr. Dittmer's company is the largest garbage hauler in Dubuque. He takes recycling from multiple collectors and welcomes aluminum and plastic. He has invested in an additional screen to deal with commingled plastics. Dubuque banned recycling glass because it was not economical.

Ms. Collins is the president of a nonprofit organization that is devoted to packaging recycling issues. Deposit laws are the "rock stars" of recycling. States with deposit laws have the highest recycling rates, all due to the deposit redemption incentive. Iowa's program is the second-best in the country. Curbside recycling is not very effective at improving recycling rates. Many beverages are consumed outside the home and are not placed in curbside bins. The worldwide trend is to expand container recycling laws to include more containers.

Economics of the Bottle Bill. Dr. Dermot Hayes, Pioneer Chair of Agribusiness, Professor of Finance, and Professor of Economics, Iowa State University, has written two articles about the Iowa bottle bill. He is struck by how well the law is designed so that it imposes no regulatory burden. A flaw in the law is that the amount of the deposit is not indexed for inflation. Five cents is not enough. Recycling has fallen because containers are not redeemed, giving distributors a windfall of about \$18 million per year. The money from unredeemed containers should be enough to support paying a two-cent handling fee to redemption centers. Also, the law did not anticipate the use of plastic bottles. If the law is expanded to cover these types of containers, there would also be sufficient funds to double payments to redemption centers.

Overview and Comparison of Recycling Policies. Mr. Moon discussed enabling legislation for recycling initiatives in the state, including the 1987 Groundwater Protection Act and the 1989 Waste Reduction and Recycling Act. The Groundwater Protection Act reduced reliance on landfill disposal and established a waste management hierarchy requiring cities and counties to prepare integrated solid waste management comprehensive plans. The Act also set solid waste tonnage fees which are remitted to DNR and placed in the solid waste account of the Groundwater Protection Fund to pay for DNR operations and statewide program support for various waste handling initiatives.

The Waste Reduction and Recycling Act established state waste reduction and recycling goals to reduce waste landfilled, directed DNR to establish a statewide waste reduction and recycling network, and established landfill bans of specified materials. The Act has facilitated increased access to curbside recycling, drop-off recycling locations, and diversion of household hazardous materials, batteries, appliances, oil and filters, scrap tires, and electronics from landfills. New legislative initiatives within the last 10 years include solid waste environmental management systems in 2008, a comprehensive recycling task force in 2009, and the Derelict Building Grant Program in 2011. Emerging initiatives include hub and spoke recycling for rural areas and diversion of food waste from landfills.

Recycling—Beyond the Bottle Bill. Mr. Eric O'Brien, Sustainability Coordinator, University of Northern Iowa (UNI); Mr. Paul Schultz, Retired Resource Management Coordinator, City of Dubuque; Ms. Kathy Morris, Director, Waste Commission of Scott County; Ms. Reo Menning, Director, Metro Waste Authority, Des Moines; Mr. Tony Colosimo, CEO, Phoenix Recycling, Des Moines; and Mr. Eric Holthaus, Sustainability Coordinator, University of Iowa (UI), discussed recycling in the state in a broader context than recycling of beverage containers.

Mr. O'Brien said that UNI students have asked for more recycling options. UNI has tray-free dining to reduce food waste; is adding single-stream recycling to all buildings, including residence halls; has redesigned recycling units and signage; and owns its trash trucks.

Mr. Schultz said that Dubuque utilizes a triple bottom line of economy, environment, and people in managing trash. The city concentrates its efforts on efficiency and eliminated glass from curbside recycling as unprofitable. Incentives to recycle include smaller trash containers and volume-based or "pay as you throw" fees.

Ms. Morris said that the Scott County Commission was formed in 1972 to provide environmentally sound recycling and landfill diversion. In 2009, the Commission moved to a single-stream system. The Commission is the first entity in the

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state to collect e-waste at the curb. Waste is automatically collected in carts which are priced based on size. Glass is collected but is a problem, due to safety concerns.

Ms. Menning said that the Metro Waste Authority serves Polk County and 23 communities, collecting 83 percent of the state's waste. In a landfill, there are considerations besides weight and space. Food is heavy and decomposes, plastic is light and never decomposes, and other materials may not weigh much but pose pollution concerns, such as mercury thermostats and Christmas lights. Single-stream recycling has worked well. Ms. Menning opined that if Iowa moves beverage containers into single-stream recycling, recycling rates of those items will decrease.

Mr. Colosimo said besides owning a recycling facility, he owns a construction demolition facility that recycles construction waste. In Iowa, the pyramid is upside down; landfills are paid by how much comes in, not by what gets diverted. To move forward, we need to give landfills incentives to reduce inputs such as food and construction and industrial waste. The Derelict Building Program has been successful. The state needs to look at the big picture. Beverage container waste is only a small part of that.

Mr. Holthaus said that the UI has partnered with the Environmental Protection Agency and DNR to set sustainability targets such as not increasing energy use, diverting more waste, recycling and reselling unneeded UI property, landscape planning on campus, composting of organic materials including food waste, and single-stream recycling. The UI is working to provide consistent recycling containers on campus and clearly communicate recycling as a value. Beverage containers with a deposit are collected and do not end up in the trash.

Committee Discussion. Members of the committee agreed that common ground can be reached in deciding how to move recycling efforts forward in the state. Good information was presented for the committee's consideration during this interim meeting but it will take more time than one meeting to make recommendations for developing a comprehensive recycling program for the whole state. Such a program may involve phasing out the existing beverage container law while phasing in a broader recycling law. The policy might include efforts to reduce the use of individual beverage containers. The current bottle bill addresses two issues: littering and recycling. Recycling policy must continue to address both of those issues.

Members of the committee agreed that the best way to approach the challenge of recycling is to appoint a small group of committed legislators to serve as a task force or working group, including those legislators on this interim committee. The working group can invite input from DNR, other state agencies, and other interested stakeholders, but legislators will be the decision makers for any recommendations.

Recommendation. Upon motion, the committee unanimously voted to recommend to the General Assembly that a small working group composed of legislators only as voting members, should be appointed by legislative leadership to meet for a specified period of time and tasked with developing recommendations for a comprehensive recycling policy for the state and recommendations for specific goals and timelines for implementation of that policy. The committee further recommended that all members of the Recycling Policy Study Committee be given the opportunity to serve as members of the working group.

LSA Contacts: Ann Ver Heul, Legal Services, (515) 281-3837; Tim Reilly, Legal Services, (515) 725-7354.

Internet Site: <https://www.legis.iowa.gov/committees/committee?ga=86&session=1&groupID=24163>

GAMBLING CASINO RESTRICTED LICENSE STUDY COMMITTEE

October 20, 2015

Co-chairperson: Senator Wally Horn

Co-chairperson: Representative Guy Vander Linden

Overview. The Gambling Casino Restricted License Study Committee received testimony from various organizations and individuals related to the potential licensing of a nonsmoking casino in Cedar Rapids. This briefing includes a summary of the testimony by the various presenters.

Legislative Services Agency. Ms. Christin Mechler, Legislative Analyst, and Mr. Ed Cook, Senior Legal Counsel, provided background information from a fiscal and legal perspective regarding gaming revenues and casino licensing.

- **Fiscal.** Overall gaming revenues for FY 2014-2015 were \$313.9 million which was an increase of 1.7 percent from the previous fiscal year. During FY 2014-2015 gaming revenues distributed to local communities totaled \$11 million to county endowment fund counties (counties without a casino), which was an increase of 1.9 percent from the

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previous fiscal year, and revenues distributed to cities and counties with a casino totaled \$13.8 million, which was an increase of 2.1 percent from the previous fiscal year. The committee also learned that admissions to casinos were up 3.5 percent during FY 2014-2015.

- **Legal.** Pari-mutuel wagering was first authorized in 1983 but only for horse and dog racing. The Iowa Racing and Gaming Commission (Commission) was also created at this time and had full jurisdiction over all races. Gambling games were authorized in 1989 for slot machines, poker, and table games and the jurisdiction of the Commission was extended over these games at casinos. With respect to the issuance of a new casino license, the current statutory framework provides that the Commission has the power to investigate applicants, determine the eligibility of applicants for a license, and select among the competing applicants for a license the applicant which best serves the interests of the citizens of Iowa. The Commission adopted Iowa Administrative Code Rule 491-1.7 establishing the criteria for granting licenses and renewing licenses. The criteria include compliance, gaming integrity, economic impact and development, efficient and safe operation, community support, nurture of the racing industry, and other factors.
- **Current Legislation.** Three current bills were identified relating to casino gambling. Senate File 24 provides a tax exemption from the state wagering tax for promotional (free) plays, increases the percentage of state wagering tax revenues directed to the County Endowment Fund Program, requires a smoke-free casino license be issued, and establishes a 10-year moratorium on new casino licenses. Senate File 139 requires the Commission to issue a license in a city with a population over 50,000 persons. House File 255 requires the Commission to grant up to two licenses for smoke-free casinos.

County Endowment Fund Program. Ms. Kristi Knous, President, Greater Des Moines Community Foundation, and Mr. Joe Sorenson, Director of Affiliate Relations, Greater Des Moines Community Foundation, provided an overview of the County Endowment Fund Program. A county endowment fund exists in the 84 counties that do not have a casino and is funded in part from a percentage of the state wagering tax revenues. Many county endowment funds reserve 25 percent of the funds received from the state wagering tax for establishment of a permanent endowment and use the remaining 75 percent of the funds for grant programs that impact local communities. In the previous year, county endowment funds awarded 2,259 grants totaling more than \$8.5 million throughout the state.

Iowa Racing and Gaming Commission. Mr. Brian Ohorilko, Administrator, Iowa Racing and Gaming Commission, presented an overview of the Commission and the licensing process. The process for obtaining a license lasts approximately five to ten months. The licensing process starts with a market study, followed by a public announcement, applicant presentation, background report, site visit by the Commission, public comment, a question-and-answer session for Commission members, and finally the decision. Committee discussion ensued about whether smoking in a casino has ever been considered a safety issue by the Commission. The committee learned that the Cedar Rapids application for a license was not for a smoke-free casino, and thus the Commission has never considered smoking as a safety issue or studied the impact of smoking on employees and patrons of a casino. More discussion ensued about smoking in casinos and the impact on the issuance of future licenses.

Casino Exemption from the Clean Air Act. Mr. Gary Streit, a volunteer with the American Cancer Society, presented about the dangers of secondhand smoke. The committee learned that there are 6,400 tobacco-related deaths a year in Iowa. Mr. Streit emphasized that he opposes smoking at any casino, not just the proposed smoke-free casino in Cedar Rapids. He discussed the fact that casinos are not losing money and that there is no evidence that casino revenues would be reduced if casinos banned smoking. He also stated that it is not a real choice when casino employees are told they do not have to work at the casino especially when working at a casino is a good-paying job. In response to a question, he also stated that secondhand smoke causes lung cancer and heart disease and should be considered a safety issue.

Workers' Perspective on Smoke-Free Casinos. Mr. Adam Swihart, a representative of the American Federation of State, County, and Municipal Employees (AFSCME), spoke on behalf of the workers at Prairie Meadows Casino. He stated that nonsmoking sections at casinos do not work because of the smell and employees are still subject to secondhand smoke throughout the rest of the casino. He noted that employees at table games are prohibited from waving smoke away from themselves and are not allowed to smoke in the breakroom. Mr. Dave Eyman, Special Agent, Division of Criminal Investigation of the Department of Public Safety, who is required to work at casinos, spoke about his work experiences at a casino. He informed the committee he is not speaking on behalf of his employer. He stated the filtration systems installed in casinos do not clean the air well, especially on crowded nights. He also noted that research has proven that secondhand smoke is dangerous. He further stated that while working at a casino is a

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good-paying job there is still huge employee turnover at Prairie Meadows.

Court Case Related to Proposed Cedar Rapids Casino. Mr. Gene Kopecky, an attorney from Cedar Rapids, discussed a lawsuit against the Commission over the proposed Cedar Rapids casino. He stated 67.5 percent of the voters in Linn County approved the casino. He believes that the Commission should advocate on behalf of the citizens of Iowa, not the casinos. The law does not specify that the Commission should protect the existing casinos by nullifying the vote of the people in Linn County. He further stated that the current statutory framework does not intend for the Commission to create a monopoly. The mission of the Commission has changed from supervising casinos to being concerned about casino profits. Finally, he noted that since Iowa is a county option state, the vote in Linn County has to mean something. A committee member asked what the objective was in filing the lawsuit. He responded that a declaratory order should be issued by the court that would prevent the Commission from considering the existence of a casino in one county in order to deny the issuance of a license for a casino in another county. More committee discussion followed about the Commission needing to operate more independently from the gaming industry.

Committee Discussion—Votes. The committee discussed and voted on two recommendations. The first recommendation requested that the Legislature direct the Commission to study the effects of secondhand smoke on employees and patrons of casinos. This recommendation did not pass. The second recommendation requested that the portion of the administrative rule including as a consideration for granting a casino license the impact of a new license on existing casino licensees be eliminated by the Legislature. This recommendation also did not pass. More committee discussion followed about future legislation, but no further recommendations were presented to the committee.

LSA Contacts: Joe McEniry, Legal Services, (515) 281-3189; Nick Schroeder, Legal Services, (515) 725-7323.

Internet Site: <https://www.legis.iowa.gov/committees/committee?ga=86&session=1&groupID=24162>